IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No.188/2005

Decided on.8.5.2007

United India Insurance Company …Petitioner.

Versus

MACT-II and others. …Respondents

Coram

The Hon'ble Mr. Rajiv Sharma, J.

Whether approved for reporting ?[1]*. No.*

For the petitioner : Mr. Ashwani Kumar Sharma, Advocate

For the respondents No.2 to 4 Mr. Ashwani Pathak, Advocate.

Rajiv Sharma, J.

This petition is directed against the award dated 17.11.2004 passed by learned MACT-II, Mandi, H.P.

The brief facts necessary for the adjudication of this petition are that the respondents No. 2 to 4 being the widow, son and mother respectively of the deceased Shri Duni Chand filed claim petition under section 166 of the Motor Vehicles Act, 1988 before the Tribunal (petition No. 48 of 1998) for grant of compensation on account of death of Shri Duni Chand. Sh. Duni Chand boarded the bus on 11.12.1997 at Kotli which met with an accident and he received grievous injuries. Sh. Duni Chand was firstly taken to CHC Kotli and thereafter he was referred to Zonal Hospital, Mandi where he was declared dead on the same day. The age of deceased Shri Duni Chand at the time of accident was 25 years. The learned MACT has taken the gross income of deceased Duni Chand

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[1] ***Whether the reporters of Local Papers may be allowed to see the judgment***? No.

@ Rs. 9607/- per month and after deducting 1/3rd of the amount, the dependency was worked out to Rs. 6405/- which was multiplied by 12 and on which a multiplier of 14 was applied. The learned MACT had awarded a sum of Rs. 10,76,040/- to the claimants.

The sole contention of Mr. Ashwani Kumar Sharma, Advocate appearing on behalf of petitioner is that the award made by the learned MACT is exorbitant and the findings recorded by the Tribunal are perverse with regard to the income of deceased Sh. Duni Chand on the basis of his salary.

Mr. Ashwani Pathak, Advocate appearing on behalf of the respondents/claimants had supported the award dated 17.11.2004 and submitted that the Tribunal should have applied the multiplier on the basis of structured formula.

I have heard the parties and perused the record.

Mr. Ashwani Kumar Sharma, Advocate had drawn the attention of this Court towards document Ex.PW-1/B which according to him should not have been treated as salary certificate of late Shri Duni Chand. One thing is clear from the reading of this document that the basic pay of Duni Chand was Rs. 930/- and this Court can take judicial notice of the fact that the pay scales were revised in the Armed Forces also with effect from 1.1.1996 and the pay scale of Rs. 900/- has been revised to Rs. 3020/- with effect from 1.1.1996 and on that basic pay, he was entitled to other allowances also and accordingly his salary could be taken @ Rs. 4000/- per month. PW-1 Smt, Meena Devi had also stated that the salary of her husband was about Rs. 4,000/- and he was sending Rs. 3500/- to her.

Shri Duni Chand had only put in about two years of service in the Army since he was enrolled in the month of September, 1995 and was to serve for another 13 years during which period he was to be promoted

and after his superannuation was entitled to get the pension also. Presuming that Sh. Duni Chand was to be promoted only by one or two ranks, his salary would have definitely increased by another Rs. 2,000/- per month meaning thereby that his gross salary could be taken @ Rs. 6000/- per month. From a sum of Rs. 6000/-, his personal living expenses have to be deducted. Since the deceased was serving in the Army, as such, he was getting free ration and boarding etc. A sum of Rs. 1000/- could be taken as personal living expenses and loss of dependency is to be capitalized Rs. 5000/- per month or Rs. 60,000/- per year as the loss of dependency and if capitalized on a multiplier of 17, as per structured formula, the compensation would work out to Rs. (60,000x17 = Rs10,20,000/-) to which the usual award for loss of consortium and loss of the estate each in the conventional sum of Rs. 15,000/- each is to be added.

Accordingly the compensation as per above discussion is determined at Rs.10,50,000 /-. Thus, a sum of Rs. 10,76,070/- awarded by the learned Tribunal cannot be treated as perverse and exorbitant and the award passed by the learned Tribunal is upheld.

Consequently there is no merit in the petition and the same is dismissed with no order as to costs.

(Rajiv Sharma), Judge

8.5. 2007
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